

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER II, 2019 / 2020 SESSION

ULT 2622 – LAW OF TORTS II

(All Sections / Groups)

29th February 2020

Reading Time: 09:00 a.m. – 09:15 a.m.

(15 Minutes)

Answering Time: 09:15 a.m. – 12:15 p.m.

(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes only in their question paper. Students then have the remaining **three hours** in which to answer the questions.
2. This Question paper consists of 3 pages with 5 questions only.
3. Attempt **ONE** question in **PART A** and **ALL** questions in **PART B** which are **COMPULSORY**. The distribution of the marks for each question is given.
4. Students are NOT allowed to bring any statutes into the Examination Hall.
5. Please write all your answers in the Answer Booklet provided.

PART A - CHOOSE ONE (1) QUESTION ONLY**QUESTION 1**

Jennifer is a business student in Cosmopolitan University. She rents a room in a terrace house at Taman Tiara. Her neighbours to the left are musicians from a band called Mentari. Sometimes at night, Mentari will 'jam' in their house until 2am in the morning. This occurs on a rate of an average of three times a week. The loud noise from the music disrupts Jennifer's study, and the late-night playing prevents her from having a good night sleep.

The neighbour to the right of Jennifer, Ally operates a fast food delivery service at his front car porch. A wood-burning oven was built which produces a lot of smoke when in use. This causes discomfort to Jennifer whose room window is near to the chimney of the oven. Ally thinks that his activity should be tolerated as its business provides some benefits to the residents nearby.

Ally also provides a take-away service, so sometimes the road in front of Ally's house is congested with vehicles waiting for their food to be ready. This causes inconvenience and discomfort to the residents in the neighbourhood.

Advise Jennifer on whether any legal recourse is available to her.

[Total: 25 marks]

OR

QUESTION 2

The strict liability rules in the case of *Rylands v Fletcher* is a term used to describe liability which is imposed on the defendant without any proof of fault on his part. Although the defendant might have taken all reasonable precautions to avoid or minimise risks arising from his activity, he may still be found liable if the tort which has arisen falls under the category of strict liability. However, under the rule in *Rylands v Fletcher*, defendant may still escape the liability if he manages to come under certain rescue.

Discuss.

[Total: 25 marks]

Continued...

PART B – ANSWER ALL QUESTIONS**QUESTION 3**

Mala has been in women apparels' business since the year 2000 with a trade name 'Busana Kesuma Dewi'. Since then she has managed to establish the goodwill of the business through good quality fabrics, up-to-date fashions and designs as well as neat tailoring services. She has also expanded the business by opening up five more branches throughout Peninsular Malaysia.

In January 2018, Mala as the CEO of her company had entered into a joint venture agreement with Steffi Advertising Company to organize an international fashion show event in March 2020. After the signing of the agreement, both parties have worked hard to make preparation for the event to ensure its success. However, last November, Steffi Advertising Company suddenly terminated their agreement with Mala. Mala felt so worried and disappointed as she may not be able to perform her best for the event as most of the event-related matters such as marketing, sales and modelling were managed by Steffi Advertising Company.

Due to the termination of the contract, most of the preparations could not be done as scheduled. Consequently, Mala and her staff had to work day and night to complete the works as the event is just around the corner. The main sponsor, Stewart Adrian Corporations was dissatisfied with Mala's performance. They cut some of the budget allocated for the event. As a result, Mala suffered a big loss.

In the meantime, Mala discovered that Steffi Advertising Company has entered into a new agreement with Thay & Co to organize another fashion show event. To her surprise, she also found out that Thay & Co had used the domain name of busanakesumadewi.com for their online fabric business. Some of Mala's customers have made online purchases with them thinking the online business portal busanakesumadewi.com belongs to Mala.

Advise Mala.

[Total: 25 marks]

QUESTION 4

It has been suggested that a hospital's liability for the torts committed by its employees rests not on the principle of vicarious liability but the breach of its primary duty to the patients.

Do you agree with the above statement? Discuss to what extent hospitals or medical centres will be vicariously liable for the negligence committed by their consultants and surgeons.

[Total: 25 marks]

Continued...

QUESTION 5

Last year, Andy, aged 47, met with an accident caused by Stanley who failed to stop during the red traffic light. As a result, Andy died in an ambulance on his way to the hospital. His brand new BMW car was also badly damaged due to the accident.

Previously, Andy was a very hardworking senior engineer in a multinational company, based in Kuala Lumpur. His annual income was RM500,000. He paid RM100,000 for income tax and used 30% of his gross income for personal expenses such as gadgets, broad bands, gym and entertainments.

He also had good prospects in his job, whereby he was promised by the Board of Directors of the company that he shall be promoted to a position of CEO of the company in the near future. His wife, Nana is running her own saloon and spa in Taman Bestari Jaya. His first child, Tom, is studying artificial intelligence at a private college. His twin daughters, Pixie and Dixie are studying at secondary school.

In the meantime, Nana discovered from the internet that, a blogger, Mr Arrogant, has written in his blog that Andy's death was caused by his wife who really wants to take over all his property and she is having an affair with another man. Nana is very upset and plans to do something to clear her reputation.

Nana would like to know whether she has the rights to claim for remedies from Stanley and Mr Arrogant. Advise her on her rights and entitlements.

[Total: 25 marks]

End of Page